



# CENTRAL INTELLIGENCE AGENCY

Office of Congressional Affairs  
Washington, D.C. 20505

STAT

9/23/88

**TO:** MS Kimberly Weaver  
subcommittee on Federal Services,  
601 Senate Hart Office Bldg.

Kim:

Attached is the Executive  
Order 12333. I have clipped  
the cite in our Language for  
the Committee Report on Senator  
Pryors Amendment.

I appreciate your help.  
Let me know if you have any  
questions or concerns.

STAT

FORM 2-86 **1533** OBSOLETE  
PREVIOUS EDITIONS.

(40)

OCA 3343-88

CA FILE Leg

H.R. 4781  
Department of Defense Appropriations Bill  
Legislative History

Subsection 2397d(f) of this bill exempts certain sensitive contracts from the registration requirements of the section. With respect to intelligence information, the intent is to exempt that which pertains to intelligence activities as defined in section 3.4(e) of Executive order 12333 or a comparable definitional section in its successor orders.

## Executive Order 12333 of December 4, 1981

## UNITED STATES INTELLIGENCE ACTIVITIES

[3 C.F.R., 1981 Comp., p. 200, December 4, 1981, 50 U.S.C.A. 401 Note]

## TABLE OF CONTENTS

	<i>[Guide Page]</i>
Preamble .....	XII-2
<i>Part 1. Goals, Direction, Duties, and Responsibilities With Respect to the National Intelligence Effort</i>	
1.1 Goals .....	XII-2
1.2 The National Security Council .....	XII-3
1.3 National Foreign Intelligence Advisory Groups .....	XII-3
1.4 The Intelligence Community .....	XII-4
1.5 Director of Central Intelligence .....	XII-5
1.6 Duties and Responsibilities of the Heads of Execu- tive Branch Departments and Agencies .....	XII-6
1.7 Senior Officials of the Intelligence Community .....	XII-7
1.8 The Central Intelligence Agency .....	XII-8
1.9 The Department of State .....	XII-9
1.10 The Department of the Treasury .....	XII-9
1.11 The Department of Defense .....	XII-10
1.12 Intelligence Components Utilized by the Secretary of Defense .....	XII-11
1.13 The Department of Energy .....	XII-14
1.14 The Federal Bureau of Investigation .....	XII-14
<i>Part 2. Conduct of Intelligence Activities</i>	
2.1 Need .....	XII-15
2.2 Purpose .....	XII-15
2.3 Collection of Information .....	XII-15
2.4 Collection Techniques .....	XII-16
2.5 Attorney General Approval .....	XII-17
2.6 Assistance to Law Enforcement Authorities .....	XII-17
2.7 Contracting .....	XII-18
2.8 Consistency With Other Laws .....	XII-18
2.9 Undisclosed Participation in Organizations Within the United States .....	XII-18
2.10 Human Experimentation .....	XII-18

XII-1

5 October 1982

XIII  
E.O.  
12331  
FIAB12334  
E.O.B.XV  
E.O.  
ExtractsXVI  
Judicial  
Decs.

## Dmsaps

	<i>[Guide Page]</i>
2.11 Prohibition on Assassination .....	XII-19
2.12 Indirect Participation .....	XII-19

*Part 3. General Provisions*

3.1 Congressional Oversight .....	XII-19
3.2 Implementation .....	XII-19
3.3 Procedures .....	XII-19
3.4 Definitions .....	XII-19
3.5 Purpose and Effect .....	XII-21
3.6 Revocation .....	XII-21
[Addendum 1 .....	XII-22 <sup>1</sup>
Appendix A (Attorney General Procedures, unclassified) .....	XII-25]

Timely and accurate information about the activities, capabilities, plans, and intentions of foreign powers, organizations, and persons, and their agents, is essential to the national security of the United States. All reasonable and lawful means must be used to ensure that the United States will receive the best intelligence available. For that purpose, by virtue of the authority vested in me by the Constitution and statutes of the United States of America, including the National Security Act of 1947, as amended, and as President of the United States of America, in order to provide for the effective conduct of United States intelligence activities and the protection of constitutional rights, it is hereby ordered as follows:

**Part I***Goals, Direction, Duties and Responsibilities With Respect to the National Intelligence Effort*

1.1 *Goals.* The United States intelligence effort shall provide the President and the National Security Council with the necessary information on which to base decisions concerning the conduct and development of foreign, defense and economic policy, and the protection of United States national interests from foreign security threats. All departments and agencies shall cooperate fully to fulfill this goal.

<sup>1</sup> The President's statement of December 4, 1981, on issuing this Order and E.O. 12334 (*Guide*, PART XIV) is included in the *Guide*, as ADDENDUM 1 to PART XII.

5 October 1982

XII-2

(a) Maximum emphasis should be given to fostering analytical competition among appropriate elements of the Intelligence Community.

(b) All means, consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, shall be used to develop intelligence information for the President and the National Security Council. A balanced approach between technical collection efforts and other means should be maintained and encouraged.

(c) Special emphasis should be given to detecting and countering espionage and other threats and activities directed by foreign intelligence services against the United States Government, or United States corporations, establishments, or persons.

(d) To the greatest extent possible consistent with applicable United States law and this Order, and with full consideration of the rights of United States persons, all agencies and departments should seek to ensure full and free exchange of information in order to derive maximum benefit from the United States intelligence effort.

### 1.2 *The National Security Council.*

(a) *Purpose.* The National Security Council (NSC) was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign and military policies relating to the national security. The NSC shall act as the highest Executive Branch entity that provides review of, guidance for and direction to the conduct of all national foreign intelligence, counterintelligence, and special activities, and attendant policies and programs.

(b) *Committees.* The NSC shall establish such committees as may be necessary to carry out its functions and responsibilities under this Order. The NSC, or a committee established by it, shall consider and submit to the President a policy recommendation, including all dissents, on each special activity and shall review proposals for other sensitive intelligence operations.

### 1.3 *National Foreign Intelligence Advisory Groups.*

(a) *Establishment and Duties.* The Director of Central Intelligence shall establish such boards, councils, or groups as required for the purpose of obtaining advice from within the Intelligence Community concerning:

(1) Production, review and coordination of national foreign intelligence;

XII-3

19 February 1982

XIII  
E.O.  
1331  
FIAB

12334  
P.I.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

- (2) Priorities for the National Foreign Intelligence Program budget;
- (3) Interagency exchanges of foreign intelligence information;
- (4) Arrangements with foreign governments on intelligence matters;
- (5) Protection of intelligence sources and methods;
- (6) Activities of common concern; and
- (7) Such other matters as may be referred by the Director of Central Intelligence.

(b) *Membership.* Advisory groups established pursuant to this section shall be chaired by the Director of Central Intelligence or his designated representative and shall consist of senior representatives from organizations within the Intelligence Community and from departments or agencies containing such organizations, as designated by the Directive of Central Intelligence. Groups for consideration of substantive intelligence matters will include representatives of organizations involved in the collection, processing and analysis of intelligence. A senior representative of the Secretary of Commerce, the Attorney General, the Assistant to the President for National Security Affairs, and the Office of the Secretary of Defense shall be invited to participate in any group which deals with other than substantive intelligence matters.

1.4 *The Intelligence Community.* The agencies within the Intelligence Community shall, in accordance with applicable United States law and with the other provisions of this Order, conduct intelligence activities necessary for the conduct of foreign relations and the protection of the national security of the United States, including:

- (a) Collection of information needed by the President, the National Security Council, the Secretaries of State and Defense, and other Executive Branch officials for the performance of their duties and responsibilities;
- (b) Production and dissemination of intelligence;
- (c) Collection of information concerning, and the conduct of activities to protect against, intelligence activities directed against the United States, international terrorist and international narcotics activities, and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents;
- (d) Special activities;
- (e) Administrative and support activities within the United States and abroad necessary for the performance of authorized activities; and
- (f) Such other intelligence activities as the President may direct from time to time.

19 February 1982

XII-4

1.5 *Director of Central Intelligence.* In order to discharge the duties and responsibilities prescribed by law, the Director of Central Intelligence shall be responsible directly to the President and the NSC and shall:

- (a) Act as the primary adviser to the President and the NSC on national foreign intelligence and provide the President and other officials in the Executive Branch with national foreign intelligence;
- (b) Develop such objectives and guidance for the Intelligence Community as will enhance capabilities for responding to expected future needs for national foreign intelligence;
- (c) Promote the development and maintenance of services of common concern by designated intelligence organizations on behalf of the Intelligence Community;
- (d) Ensure implementation of special activities;
- (e) Formulate policies concerning foreign intelligence and counterintelligence arrangements with foreign governments, coordinate foreign intelligence and counterintelligence relationships between agencies of the Intelligence Community and the intelligence or internal security services of foreign governments, and establish procedures governing the conduct of liaison by any department or agency with such services on narcotics activities;
- (f) Participate in the development of procedures approved by the Attorney General governing criminal narcotics intelligence activities abroad to ensure that these activities are consistent with foreign intelligence programs;
- (g) Ensure the establishment by the Intelligence Community of common security and access standards for managing and handling foreign intelligence systems, information, and products;
- (h) Ensure that programs are developed which protect intelligence sources, methods, and analytical procedures;
- (i) Establish uniform criteria for the determination of relative priorities for the transmission of critical national foreign intelligence, and advise the Secretary of Defense concerning the communications requirements of the Intelligence Community for the transmission of such intelligence;
- (j) Establish appropriate staffs, committees, or other advisory groups to assist in the execution of the Director's responsibilities;
- (k) Have full responsibility for production and dissemination of national foreign intelligence, and authority to levy analytic tasks on departmental intelligence production organizations, in consultation with those organizations, ensuring that appropriate mechanisms for

19 February 1982

XII-5

XIII  
E.O.  
1331  
FIAB

12334  
P.I.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

competitive analysis are developed so that diverse points of view are considered fully and differences of judgment within the Intelligence Community are brought to the attention of national policymakers;

(l) Ensure the timely exploitation and dissemination of data gathered by national foreign intelligence collection means, and ensure that the resulting intelligence is disseminated immediately to appropriate government entities and military commands;

(m) Establish mechanisms which translate national foreign intelligence objectives and priorities approved by the NSC into specific guidance for the Intelligence Community, resolve conflicts in tasking priority, provide to departments and agencies having information collection capabilities that are not part of the National Foreign Intelligence Program advisory tasking concerning collection of national foreign intelligence, and provide for the development of plans and arrangements for transfer of required collection tasking authority to the Secretary of Defense when directed by the President;

(n) Develop, with the advice of the program managers and departments and agencies concerned, the consolidated National Foreign Intelligence Program budget, and present it to the President and the Congress;

(o) Review and approve all requests for reprogramming National Foreign Intelligence Program funds, in accordance with guidelines established by the Office of Management and Budget;

(p) Monitor National Foreign Intelligence Program implementation, and, as necessary, conduct program and performance audits and evaluations;

(q) Together with the Secretary of Defense, ensure that there is no unnecessary overlap between national foreign intelligence programs and Department of Defense intelligence programs consistent with the requirement to develop competitive analysis, and provide to and obtain from the Secretary of Defense all information necessary for this purpose;

(r) In accordance with law and relevant procedures approved by the Attorney General under this Order, give the heads of the departments and agencies access to all intelligence, developed by the CIA or the staff elements of the Director of Central Intelligence, relevant to the national intelligence needs of the departments and agencies; and

(s) Facilitate the use of national intelligence products by Congress in a secure manner.

#### *1.6 Duties and Responsibilities of the Heads of Executive Branch Departments and Agencies.*

(a) The heads of all Executive Branch departments and agencies shall, in accordance with law and relevant procedures approved by the

19 February 1982

XII-6



points of view are  
the Intelligence  
policymakers;  
of data gathered  
ensure that the  
to appropriate

foreign intelli-  
C into specific  
conflicts in tasking  
ing information  
ational Foreign  
tion of national  
t of plans and  
ing authority to  
t;

ers and depart-  
ational Foreign  
sident and the

ming National  
with guidelines

plementation,  
ce audits and

at there is no  
programs and  
with the re-  
to and obtain  
r this purpose;

proved by the  
e departments  
e CIA or the  
relevant to the  
es; and

y Congress in

utive Branch

and agencies  
proved by the

Attorney General under this Order, give the Director of Central Intelligence access to all information relevant to the national intelligence needs of the United States, and shall give due consideration to the requests from the Director of Central Intelligence for appropriate support for Intelligence Community activities.

(b) The heads of departments and agencies involved in the National Foreign Intelligence Program shall ensure timely development and submission to the Director of Central Intelligence by the program managers and heads of component activities of proposed national programs and budgets in the format designated by the Director of Central Intelligence, and shall also ensure that the Director of Central Intelligence is provided, in a timely and responsive manner, all information necessary to perform the Director's program and budget responsibilities.

(c) The heads of departments and agencies involved in the National Foreign Intelligence Program may appeal to the President decisions by the Director of Central Intelligence on budget or reprogramming matters of the National Foreign Intelligence Program.

1.7 *Senior Officials of the Intelligence Community.* The heads of departments and agencies with organizations in the Intelligence Community or the heads of such organizations, as appropriate, shall:

(a) Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other persons as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a matter consistent with the protection of intelligence sources and methods, as specified in those procedures;

(b) In any case involving serious or continuing breaches of security, recommendations to the Attorney General that the case be referred to the FBI for further investigation;

(c) Furnish the Director of Central Intelligence and the NSC, in accordance with applicable law and procedures approved by the Attorney General under this Order, the information required for the performance of their respective duties;

(d) Report to the Intelligence Oversight Board, and keep the Director of Central Intelligence appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive;

(e) Protect intelligence and intelligence sources and methods from unauthorized disclosure consistent with guidance from the Director of Central Intelligence;

XII-7

19 February 1982

KIII  
E.O.  
1331  
FIAB

12334  
P.I.O.B.

XV  
E.O.

Extracts

XVI  
Judicial  
Decs.

(f) Disseminate intelligence to cooperating foreign governments under arrangements established or agreed to by the Director of Central Intelligence;

(g) Participate in the development of procedures approved by the Attorney General governing production and dissemination of intelligence resulting from criminal narcotics intelligence activities abroad if their departments, agencies, or organizations have intelligence responsibilities for foreign or domestic narcotics production and trafficking;

(h) Instruct their employees to cooperate fully with the Intelligence Oversight Board; and

(i) Ensure that the Inspectors General and General Counsels for their organizations have access to any information necessary to perform their duties assigned by this order.

1.8 *The Central Intelligence Agency.* All duties and responsibilities of the CIA shall be related to the intelligence functions set out below. As authorized by this Order; the National Security Act of 1947, as amended; the CIA Act of 1949, as amended; appropriate directives or other applicable law, the CIA shall:

(a) Collect, produce and disseminate foreign intelligence and counterintelligence, including information not otherwise obtainable. The collection of foreign intelligence or counterintelligence within the United States shall be coordinated with FBI as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;

(b) Collect, produce and disseminate intelligence on foreign aspects of narcotics production and trafficking;

(c) Conduct counterintelligence activities outside the United States and, without assuming or performing any internal security functions, conduct counterintelligence activities within the United States in coordination with the FBI as required by procedures agreed upon the Director of Central Intelligence and the Attorney General;

(d) Coordinate counterintelligence activities and the collection of information not otherwise obtainable when conducted outside the United States by other departments and agencies;

(e) Conduct special activities approved by the President. No agency except the CIA (or the Armed Forces of the United States in time of war declared by Congress or during any period covered by a report

19 February 1982

XII-8

from the President to the Congress under the War Powers Resolution (87 Stat. 885)) may conduct any special activity unless the President determines that another agency is more likely to achieve a particular objective;

(f) Conduct services of common concern for the Intelligence Community as directed by the NSC;

(g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized functions;

(h) Protect the security of its installations, activities, information, property, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the CIA as are necessary; and

(i) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) and through (h) above, including procurement and essential cover and proprietary arrangements.

1.9 *The Department of State.* The Secretary of State shall:

(a) Overtly collect information relevant to United States foreign policy concerns;

(b) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of the Secretary's responsibilities;

(c) Disseminate, as appropriate, reports received from United States diplomatic and consular posts;

(d) Transmit reporting requirements of the Intelligence Community to the Chiefs of United States Missions abroad; and

(e) Support Chiefs of Missions in discharging their statutory responsibilities for direction and coordination of mission activities.

1.10 *The Department of the Treasury.* The Secretary of the Treasury shall:

(a) Overtly collect foreign financial and monetary information;

(b) Participate with the Department of State in the overt collection of general foreign economic information;

(c) Produce and disseminate foreign intelligence relating to United States economic policy as required for the execution of the Secretary's responsibilities; and

19 February 1982

XII-9

XIII  
E.O.  
1331  
FIAB

12334  
P.I.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

(d) Conduct, through the United States Secret Service, activities to determine the existence and capability of surveillance equipment being used against the President of the United States, the Executive Office of the President, and, as authorized by the Secretary of the Treasury or the President, other Secret Service protectees and United States officials. No information shall be acquired intentionally through such activities except to protect against such surveillance, and those activities shall be conducted pursuant to procedures agreed upon by the Secretary of the Treasury and the Attorney General.

1.11 *The Department of Defense.* The Secretary of Defense shall:

- (a) Collect national foreign intelligence and be responsive to collection tasking by the Director of Central Intelligence;
- (b) Collect, produce and disseminate military and military-related foreign intelligence and counterintelligence as required for execution of the Secretary's responsibilities;
- (c) Conduct programs and missions necessary to fulfill national, departmental and tactical foreign intelligence requirements;
- (d) Conduct counterintelligence activities in support of Department of Defense components outside the United States in coordination with the CIA, and within the United States in coordination with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General;
- (e) Conduct, as the executive agent of the United States Government, signals intelligence and communications security activities, except as otherwise directed by the NSC;
- (f) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government;
- (g) Carry out or contract for research, development and procurement of technical systems and devices relating to authorized intelligence functions;
- (h) Protect the security of Department of Defense installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the Department of Defense as are necessary;

XII-10

19 February 1982

(i) Establish and maintain military intelligence relationships and military intelligence exchange programs with selected cooperative foreign defense establishments and international organizations, and ensure that such relationships and programs are in accordance with policies formulated by the Director of Central Intelligence;

(j) Direct, operate, control and provide fiscal management for the National Security Agency and for defense and military intelligence and national reconnaissance entities; and

(k) Conduct such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (a) through (j) above.

1.12 *Intelligence Components Utilized by the Secretary of Defense.* In carrying out the responsibilities assigned in section 1.11, the Secretary of Defense is authorized to utilize the following:

(a) *Defense Intelligence Agency*, whose responsibilities shall include:

(1) Collection, production, or, through tasking and coordination, provision of military and military-related intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies;

(2) Collection and provision of military intelligence for national foreign intelligence and counterintelligence products;

(3) Coordination of all Department of Defense intelligence collection requirements;

(4) Management of the Defense Attache system; and

(5) Provision of foreign intelligence and counterintelligence staff support as directed by the Joint Chiefs of Staff.

(b) *National Security Agency*, whose responsibilities shall include:

(1) Establishment and operation of an effective unified organization for signals intelligence activities, except for the delegation of operational control over certain operations that are conducted through other elements of the Intelligence Community. No other department or agency may engage in signals intelligence activities except pursuant to a delegation by the Secretary of Defense;

19 February 1982

XII-11

XIII  
I.O.  
1331  
FIAB

12334  
P.I.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

- (2) Control of signals intelligence collection and processing activities, including assignment of resources to an appropriate agent for such periods and tasks as required for the direct support of military commanders;
- (3) Collection of signals intelligence information for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;
- (4) Processing of signals intelligence data for national foreign intelligence purposes in accordance with guidance from the Director of Central Intelligence;
- (5) Dissemination of signals intelligence information for national foreign intelligence purposes to authorized elements of the Government, including the military services, in accordance with guidance from the Director of Central Intelligence;
- (6) Collection, processing and dissemination of signals intelligence information for counterintelligence purposes;
- (7) Provision of signals intelligence support for the conduct of military operations in accordance with tasking, priorities, and standards of timeliness assigned by the Secretary of Defense. If provision of such support requires use of national collection systems, these systems will be tasked within existing guidance from the Director of Central Intelligence;
- (8) Executing the responsibilities of the Secretary of Defense as executive agent for the communications security of the United States Government;
- (9) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security;
- (10) Protection of the security of its installations, activities, property, information, and employees by appropriate means, including such investigations of applicants, employees, contractors, and other persons with similar associations with the NSA as are necessary;
- (11) Prescribing, within its field of authorized operations, security regulations covering operating practices, including the transmission, handling and distribution of signals intelligence and communications security material within and among the elements under control of the Director of the NSA, and exercising the necessary supervisory control to ensure compliance with the regulations;
- (12) Conduct of foreign cryptologic liaison relationships, with liaison for intelligence purposes conducted in accordance with policies formulated by the Director of Central Intelligence; and

19 February 1982

XII-12

(13) Conduct of such administrative and technical support activities within and outside the United States as are necessary to perform the functions described in sections (1) through (12) above, including procurement.

(c) *Offices for the collection of specialized intelligence through reconnaissance programs*, whose responsibilities shall include:

(1) Carrying out consolidated reconnaissance programs for specialized intelligence;

(2) Responding to tasking in accordance with procedures established by the Director of Central Intelligence; and

(3) Delegating authority to the various departments and agencies for research, development, procurement, and operation of designated means of collection.

(d) *The foreign intelligence and counterintelligence elements of the Army, Navy, Air Force, and Marine Corps*, whose responsibilities shall include:

(1) Collection, production and dissemination of military and military-related foreign intelligence and counterintelligence, and information on the foreign aspects of narcotics production and trafficking. When collection is conducted in response to national foreign intelligence requirements, it will be conducted in accordance with guidance from the Director of Central Intelligence. Collection of national foreign intelligence, not otherwise obtainable, outside the United States shall be coordinated with the CIA, and such collection within the United States shall be coordinated with the FBI;

(2) Conduct of counterintelligence activities outside the United States in coordination with the CIA, and within the United States in coordination with the FBI; and

(3) Monitoring of the development, procurement and management of tactical intelligence systems and equipment and conducting related research, development, and test and evaluation activities.

(e) *Other offices within the Department of Defense appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense*. If such other offices are used for intelligence purposes, the provisions of Part 2 of this Order shall apply to those offices when used for those purposes.

XII-13

19 February 1982

XIII  
I.O.  
1331  
FIAB

12334  
P.I.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

1.13 *The Department of Energy*. The Secretary of Energy shall:

- (a) Participate with the Department of State in overtly collecting information with respect to foreign energy matters;
- (b) Produce and disseminate foreign intelligence necessary for the Secretary's responsibilities;
- (c) Participate in formulating intelligence collection and analysis requirements where the special expert capability of the Department can contribute; and
- (d) Provide expert technical, analytical and research capability to other agencies within the Intelligence Community.

1.14 *The Federal Bureau of Investigation*. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

- (a) Within the United States conduct counterintelligence and coordinate counterintelligence activities of other agencies within the Intelligence Community. When a counterintelligence activity of the FBI involves military or civilian personnel of the Department of Defense, the FBI shall coordinate with the Department of Defense;
- (b) Conduct counterintelligence activities outside the United States in coordination with the CIA as required by procedures agreed upon by the Director of Central Intelligence and the Attorney General;
- (c) Conduct within the United States, when requested by officials of the Intelligence Community designated by the President, activities undertaken to collect foreign intelligence or support foreign intelligence collection requirements of other agencies within the Intelligence Community, or, when requested by the Director of the National Security Agency, to support the communications security activities of the United States Government;
- (d) Produce and disseminate foreign intelligence and counterintelligence; and
- (e) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

19 February 1982

XII-14



## Part 2

### *Conduct of Intelligence Activities*

2.1 *Need.* Accurate and timely information about the capabilities, intentions and activities of foreign powers, organizations, or persons and their agents is essential to informed decisionmaking in the areas of national defense and foreign relations. Collection of such information is a priority objective and will be pursued in a vigorous, innovative and responsible manner that is consistent with the Constitution and applicable law and respectful of the principles upon which the United States was founded.

2.2 *Purpose.* This Order is intended to enhance human and technical collection techniques, especially those undertaken abroad, and the acquisition of significant foreign intelligence, as well as the detection and countering of international terrorist activities and espionage conducted by foreign powers. Set forth below are certain general principles that, in addition to and consistent with applicable laws, are intended to achieve the proper balance between the acquisition of essential information and protection of individual interests. Nothing in this Order shall be construed to apply to or interfere with any authorized civil or criminal law enforcement responsibility of any department or agency.

2.3 *Collection of Information.* Agencies within the Intelligence Community are authorized to collect, retain or disseminate information concerning United States persons only in accordance with procedures established by the head of the agency concerned and approved by the Attorney General, consistent with the authorities provided by Part 1 of this Order. Those procedures shall permit collection, retention and dissemination of the following types of information:

(a) Information that is publicly available or collected with the consent of the person concerned;

(b) Information constituting foreign intelligence or counter-intelligence, including such information concerning corporations or other commercial organizations. Collection within the United States of foreign intelligence not otherwise obtainable shall be undertaken by the FBI or, when significant foreign intelligence is sought, by other authorized agencies of the Intelligence Community, provided that no foreign intelligence collection by such agencies may be undertaken for the purpose of acquiring information concerning the domestic activities of United States persons;

19 February 1982

XII-15

XIII  
E.O.  
1331  
FIAB

12334  
E.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

(c) Information obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation;

(d) Information needed to protect the safety of any persons or organizations, including those who are targets, victims or hostages of international terrorist organizations;

(e) Information needed to protect foreign intelligence or counterintelligence sources or methods from unauthorized disclosure. Collection within the United States shall be undertaken by the FBI except that other agencies of the Intelligence Community may also collect such information concerning present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting;

(f) Information concerning persons who are reasonably believed to be potential sources or contacts for the purpose of determining their suitability or credibility;

(g) Information arising out of a lawful personnel, physical or communications security investigation;

(h) Information acquired by overhead reconnaissance not directed at specific United States persons;

(i) Incidentally obtained information that may indicate involvement in activities that may violate federal, state, local or foreign laws; and

(j) Information necessary for administrative purposes. In addition, agencies within the Intelligence Community may disseminate information, other than information derived from signals intelligence, to each appropriate agency within the Intelligence Community for purposes of allowing the recipient agency to determine whether the information is relevant to its responsibilities and can be retained by it.

**2.4 Collection Techniques.** Agencies within the Intelligence Community shall use the least intrusive collection techniques feasible within the United States or directed against United States persons abroad. Agencies are not authorized to use such techniques as electronic surveillance, unconsented physical search, mail surveillance, physical surveillance, or monitoring devices unless they are in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such procedures shall protect constitutional and other legal rights and limit use of such information to lawful governmental purposes. These procedures shall not authorize:

19 February 1982

XII-16

(a) The CIA to engage in electronic surveillance within the United States except for the purpose of training, testing, or conducting countermeasures to hostile electronic surveillance;

(b) Unconsented physical searches in the United States by agencies other than the FBI, except for:

(1) Searches by counterintelligence elements of the military services directed against military personnel within the United States or abroad for intelligence purposes, when authorized by a military commander empowered to approve physical searches for law enforcement purposes, based upon a finding of probable cause to believe that such persons are acting as agents of foreign powers; and

(2) Searches by CIA of personal property of non-United States persons lawfully in its possession.

(c) Physical surveillance of a United States person in the United States by agencies other than the FBI, except for:

(1) Physical surveillance of present or former employees, present or former intelligence agency contractors or their present or former employees, or applicants for any such employment or contracting; and

(2) Physical surveillance of a military person employed by a nonintelligence element of a military service.

(d) Physical surveillance of a United States person abroad to collect foreign intelligence, except to obtain significant information that cannot reasonably be acquired by other means.

*2.5 Attorney General Approval.* The Attorney General hereby is delegated the power to approve the use for intelligence purposes, within the United States or against a United States person abroad, of any technique for which a warrant would be required if undertaken for law enforcement purposes, provided that such techniques shall not be undertaken unless the Attorney General has determined in each case that there is probable cause to believe that the technique is directed against a foreign power or an agent of a foreign power. Electronic surveillance, as defined in the Foreign Intelligence Surveillance Act of 1978, shall be conducted in accordance with that Act, as well as this Order.

*2.6 Assistance to Law Enforcement Authorities.* Agencies within the Intelligence Community are authorized to:

(a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;

XII-17

19 February 1982

XIII  
I.O.  
1331  
FIAB

12334  
P.I.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

(b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

(c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and

(d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

*2.7 Contracting.* Agencies within the Intelligence Community are authorized to enter into contracts or arrangements for the provision of goods or services with private companies or institutions in the United States and need not reveal the sponsorship of such contracts or arrangements for authorized intelligence purposes. Contracts or arrangements with academic institutions may be undertaken only with the consent of appropriate officials of the institution.

*2.8 Consistency With Other Laws.* Nothing in this Order shall be construed to authorize any activity in violation of the Constitution or statutes of the United States.

*2.9 Undisclosed Participation in Organizations Within the United States.* No one acting on behalf of agencies within the Intelligence Community may join or otherwise participate in any organization in the United States on behalf of any agency within the Intelligence Community without disclosing his intelligence affiliation to appropriate officials of the organization, except in accordance with procedures established by the head of the agency concerned and approved by the Attorney General. Such participation shall be authorized only if it is essential to achieving lawful purposes as determined by the agency head or designee. No such participation may be undertaken for the purpose of influencing the activity of the organization or its members except in cases where:

(a) The participation is undertaken on behalf of the FBI in the course of a lawful investigation; or

(b) The organization concerned is composed primarily of individuals who are not United States persons and is reasonably believed to be acting on behalf of a foreign power.

*2.10 Human Experimentation.* No agency within the Intelligence Community shall sponsor, contract for or conduct research on human subjects except in accordance with guidelines issued by the Department of Health and Human Services. The subject's informed consent shall be documented as required by those guidelines.

19 February 1982

XII-18

2.11 *Prohibition on Assassination.* No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.

2.12 *Indirect Participation.* No agency of the Intelligence Community shall participate in or request any person to undertake activities forbidden by this Order.

### Part 3

#### *General Provisions*

3.1 *Congressional Oversight.* The duties and responsibilities of the Director of Central Intelligence and the heads of other departments, agencies, and entities engaged in intelligence activities to cooperate with the Congress in the conduct of its responsibilities for oversight of intelligence activities shall be as provided in title 50, United States Code, section 413. The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2422), and section 501 of the National Security Act of 1947, as amended (50 U.S.C. 413), shall apply to all special activities as defined in this Order.

3.2 *Implementation.* The NSC, the Secretary of Defense, the Attorney General, and the Director of Central Intelligence shall issue such appropriate directives and procedures as are necessary to implement this Order. Heads of agencies within the Intelligence Community shall issue appropriate supplementary directives and procedures consistent with this Order. The Attorney General shall provide a statement of reasons for not approving any procedures established by the head of an agency in the Intelligence Community other than the FBI. The National Security Council may establish procedures in instances where the agency head and the Attorney General are unable to reach agreement on other than constitutional or other legal grounds.

3.3 *Procedures.* Until the procedures required by this Order have been established, the activities herein authorized which require procedures shall be conducted in accordance with existing procedures or requirements established under Executive Order No. 12036.<sup>2</sup> Procedures required by this Order shall be established as expeditiously as possible. All procedures promulgated pursuant to this Order shall be made available to the congressional intelligence committees.

3.4 *Definitions.* For the purposes of this Order, the following terms shall have these meanings:

<sup>2</sup> Appendices A, B, C, D to Executive Order No. 12036, heretofore in the *Guide*, accordingly are retained in the *Guide* as Appendices to the new Order.

19 February 1982

XIII  
I.O.  
1331  
FIAB

12334  
I.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

(a) *Counterintelligence* means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted for or on behalf of foreign powers, organizations or persons, or international terrorist activities, but not including personnel, physical, document or communications security programs.

(b) *Electronic surveillance* means acquisition of a nonpublic communication by electronic means without the consent of a person who is a party to an electronic communication or, in the case of a nonelectronic communication, without the consent of a person who is visibly present at the place of communication, but not including the use of radio direction-finding equipment solely to determine the location of a transmitter.

(c) *Employee* means a person employed by, assigned to or acting for an agency within the Intelligence Community.

(d) *Foreign intelligence* means information relating to the capabilities, intentions and activities of foreign powers, organizations or persons, but not including counterintelligence except for information on international terrorist activities.

(e) *Intelligence activities* means all activities that agencies within the Intelligence Community are authorized to conduct pursuant to this Order.

(f) *Intelligence Community* and *agencies within the Intelligence Community* refer to the following agencies or organizations:

- (1) The Central Intelligence Agency (CIA);
- (2) The National Security Agency (NSA);
- (3) The Defense Intelligence Agency (DIA);
- (4) The offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;
- (5) The Bureau of Intelligence and Research of the Department of State;
- (6) The intelligence elements of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation (FBI), the Department of the Treasury, and the Department of Energy; and
- (7) The staff elements of the Director of Central Intelligence.

(g) *The National Foreign Intelligence Program* includes the programs listed below, but its composition shall be subject to review by the National Security Council and modification by the President:

XII-20

19 February 1982

(1) The programs of the CIA;

(2) The Consolidated Cryptologic Program, the General Defense Intelligence Program, and the programs of the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance, except such elements as the Director of Central Intelligence and the Secretary of Defense agree should be excluded;

(3) Other programs of agencies within the Intelligence Community designated jointly by the Director of Central Intelligence and the head of the department or by the President as national foreign intelligence or counterintelligence activities;

(4) Activities of the staff elements of the Director of Central Intelligence;

(5) Activities to acquire the intelligence required for the planning and conduct of tactical operations by the United States military forces are not included in the National Foreign Intelligence Program.

(h) *Special activities* means activities conducted in support of national foreign policy objectives abroad which are planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activities, but which are not intended to influence United States political processes, public opinion, policies, or media and do not include diplomatic activities or the collection and production of intelligence or related support functions.

(i) *United States person* means a United States citizen, an alien known by the intelligence agency concerned to be a permanent resident alien, an unincorporated association substantially composed of United States citizens or permanent resident aliens, or a corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments.

3.5 *Purpose and Effect.* This Order is intended to control and provide direction and guidance to the Intelligence Community. Nothing contained herein or in any procedures promulgated hereunder is intended to confer any substantive or procedural right or privilege on any person or organization.

3.6 *Revocation.* Executive Order No. 12036 of January 24, 1978, as amended, entitled "United States Intelligence Activities," is revoked.

THE WHITE HOUSE,  
December 4, 1981.

*Ronald Reagan*

19 February 1982

XII-21

XIII  
E.O.  
1331  
FIAB

12334  
P.I.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

## ADDENDUM 1

## United States Intelligence Activities

---

*Statement by the President.**December 4, 1981*

---

Today, I am issuing two Executive orders, one to govern the activities of our intelligence agencies and one to reestablish the Intelligence Oversight Board, which works to ensure that our intelligence activities are lawful. These orders are designed to provide America's intelligence community with clearer, more positive guidance and to remove the aura of suspicion and mistrust that can hobble our Nation's intelligence efforts.

This action is consistent with my promise in the campaign to revitalize America's intelligence system. The American people are well aware that the security of their country—and in an age of terrorism, their personal safety as well—is tied to the strength and efficiency of our intelligence-gathering organizations.

These orders have been carefully drafted—in consultation with the intelligence committees of both Houses of the Congress—to maintain the legal protection of all American citizens. They also give our intelligence professionals clear guidelines within which to do their difficult and essential job. Contrary to a distorted image that emerged during the last decade, there is no inherent conflict between the intelligence community and the rights of our citizens. Indeed, the purpose of the intelligence community is the protection of our people.

This is not to say mistakes were never made and that vigilance against abuse is unnecessary. But an approach that emphasizes suspicion and mistrust of our own intelligence efforts can undermine this Nation's ability to confront the increasing challenge of espionage and terrorism. This is particularly true in a world in which our adversaries pay no heed to the concerns for individual rights and freedoms that are so important to Americans and their Government. As we move into the 1980's, we need to free ourselves from the negative attitudes of the past and look to meeting the needs of the country.

---

<sup>1</sup> 17 Weekly Comp. of Presidential Documents 1335 (1981).



To those who view this change of direction with suspicion, let me assure you that while I occupy this office, no intelligence agency of the United States, or any other agency for that matter, will be given the authority to violate the rights and liberties guaranteed to all Americans by our Constitution and laws. The provisions of these Executive orders make this abundantly clear.

Most Americans realize that intelligence is a good and necessary profession to which high caliber men and women dedicate their lives. We respect them for their honorable and often perilous service to our Nation and the cause of freedom. For all our technological advances, the gathering of information and its analysis depend finally on human judgment; and good judgment depends on the experience, integrity, and professionalism of those who serve us in the intelligence community.

Let us never forget that good intelligence saves American lives and protects our freedom. The loyalty and selflessness of our intelligence community during hard times are testimony to its commitment to the principles on which our country is based. I have faith in our intelligence professionals and expect each and every one of them to live up to the ideals and standards set by these Executive orders.

These orders charge our intelligence agencies to be vigorous, innovative, and responsible in the collection of accurate and timely information—information essential for the conduct of our foreign policy and crucial to our national safety. The country needs this service and is willing to allocate the resources necessary to do the job right.

It is not enough, of course, simply to collect information. Thoughtful analysis is vital to sound decisionmaking. The goal of our intelligence analysts can be nothing short of the truth, even when that truth is unpleasant or unpopular. I have asked for honest, objective analysis, and I shall expect nothing less. When there is disagreement, as there often is, on the difficult questions of our time, I expect those honest differences of view to be fully expressed.

These orders stipulate that special attention be given to detecting and countering the espionage and other threats that are directed by hostile intelligence services against us at home and abroad. These hostile services respect none of the liberties and rights of privacy that these orders protect. Certainly the same can be said of international

XII-23

19 February 1982

XIII  
E.O.  
1331  
FIAB

12334  
P.L.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

terrorists, who present another important area of concern and responsibility for our intelligence professionals.

I want to stress that the primary job of the CIA is to conduct intelligence activities overseas and to deal with certain foreign persons who come into this country. The FBI takes primary responsibility for security activities within the United States, directed against hostile foreigners and those Americans who seek to do damage to our national security.

These orders do not alter this basic division of labor; they reaffirm it. They also encourage the fullest possible cooperation among the CIA, the FBI, and other agencies of the intelligence community as they seek to deal with fundamental challenges to our national security—challenges that respect neither national boundaries nor citizenship.

As these Executive orders are issued, I again want to express my respect and admiration for the men and women of our intelligence community: They run the risks; they bear the tensions; they serve in silence. They cannot fully be thanked in public, but I want them to know that their job is vital and that the American people, and their President, are profoundly grateful for what they do.

19 February 1982

XII-24

## APPENDIX A

REPORTING AND USE OF INFORMATION  
CONCERNING FEDERAL CRIMES

- I. *Scope.* Section 1-7(a)\* of Executive Order 12333 requires senior officials of the Intelligence Community to:

Report to the Attorney General possible violations of federal criminal laws by employees and of specified federal criminal laws by any other person as provided in procedures agreed upon by the Attorney General and the head of the department or agency concerned, in a manner consistent with the protection of intelligence sources and methods, as specified in those procedures.

These procedures govern the reporting of information concerning possible federal crimes to the Attorney General and to federal investigative agencies acquired by agencies within the Intelligence Community in the course of their functions. They also govern the handling and use of such information by the Department of Justice and federal investigative agencies in any subsequent investigations or litigation. These procedures are promulgated under the authority of 28 U.S.C. § 535 and Executive Order 12333, § 1-7(a).\*

II. *Definitions.*

- A. "Agency" means those agencies within the Intelligence Community, as defined in Executive Order 12333, § 3-4(f)\* except for the intelligence elements of the Federal Bureau of Investigation and the Department of the Treasury.
- B. "Department" means the Department of Justice.
- C. "Employee" means:
  1. A staff employee or contract employee of an Agency;
  2. Former officers or employees of an Agency, for purposes of offenses committed during their employment; and
  3. Former officers or employees of an Agency, for offenses involving a violation of 18 U.S.C. § 207.
- D. Except as specifically provided otherwise, "General Counsel" means the general counsel of the Agency or the department of

\* In Executive Order 12333 these sections are designated "1.7(a)" and "3.4(f)."

KIII  
E.O.  
1331  
FIAB

12334  
P.I.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

which it is a component or a person designated by him to act on his behalf.

### III. *General Considerations.*

- A. These procedures govern the reporting of information which the Agency or its current employees become aware of in the course of performing their functions. They do not authorize the Agency to conduct any investigation or to collect any information not otherwise authorized by law.
- B. These procedures require a current employee of the Agency to report to the General Counsel facts or circumstances that appear to the employee to indicate that a criminal offense may have been committed. Reports to the Department of Justice or to a federal investigative agency will be made by the Agency as set forth below.
- C. When an Agency has received allegations, complaints or information [hereinafter "allegations"] tending to show that an employee of that agency may have violated any federal criminal statute, or another person may have violated a federal criminal statute contained within one of the categories listed in Section IV below, the Agency shall within a reasonable period of time determine through a preliminary inquiry whether or not there is any basis to the allegations (that is, are clearly not frivolous or false). If the allegations can be established as without basis, the General Counsel will make an appropriate record of his findings and no reporting under these procedures is required. If the allegations cannot be established as without basis, the reporting procedures set forth below will be followed. A preliminary inquiry shall not include interviews with persons other than current employees of the Agency or examination of premises not occupied by the Agency without the prior notification and approval of the Department of Justice, except that the Agency may interview a non-employee for the sole purpose of determining the truth of a report that such non-employee has made an allegation or complaint against an Agency employee. The foregoing provisions shall neither limit the techniques which the Agency may otherwise be authorized to use, nor limit the responsibility of the Agency to provide for its security functions pursuant to Executive Order 12333.
- D. Allegations shall be reported pursuant to the procedures in effect at the time the allegations came to the attention of the Agency.

XII-26

31 May 1982

E. Allegations that appear to involve crimes against property and involve less than \$500 need not be reported pursuant to the procedures set forth below. The General Counsel will, however, make an appropriate record of his findings.

F. In lieu of following the procedures set forth below, the General Counsel may orally report periodically, but at least quarterly, to the Department concerning those offenses which, while subject to these reporting requirements, are in the opinion of the General Counsel of such a minor nature that no further investigation or prosecution of the matter is necessary. If an oral report is made, the General Counsel will meet with the Assistant Attorney General or a designated Deputy Assistant Attorney General of the Criminal Division, Department of Justice to obtain his concurrence or nonconcurrence with the General Counsel's opinion. If such concurrence is obtained, no further reporting under these procedures is required. If concurrence is not obtained, the reporting procedures set forth below will be followed.

#### IV. Non-Employee Reportable Offenses

A. Allegations concerning offenses in the following categories are reportable, if they pertain to a person other than an employee.

1. Crimes involving intentional infliction or threat of death or serious physical harm. Such crimes may include:

Assault—18 U.S.C. §§111-113(A)

Homicide—18 U.S.C. §§1111-14, 1116, 2113(e)

Kidnapping—28 U.S.C. §1201

Presidential assassination, assault or kidnapping—18 U.S.C. §1751

Threats against the President and successors to the President—18 U.S.C. §71

2. Crimes likely to impact upon the national security, defense or foreign relations of the United States. Such crimes may include:

Communicating classified information—50 U.S.C. §783(b)

Espionage—18 U.S.C. §§793-98

XII-27

12 September 1985  
TS 30

XIII  
I.O.  
2331  
FIAB

12334  
P.I.O.B.

XV  
E.O.  
Extracts

XVI  
Judicial  
Decs.

- Sabotage—18 U.S.C. §§2151-57
- Arms Export Control Act—22 U.S.C. §2778
- Atomic Energy Act—42 U.S.C. §§2077, 2092, 2111, 2122
- Export Administration Act—50 U.S.C. App §2410
- Neutrality Offense—18 U.S.C. §§956-60
- Trading with the Enemy Act—50 U.S.C. App §§5(b), 16
- Agents of foreign government—18 U.S.C. §951
- Government employee acting for a foreign principal—18 U.S.C. §219
- Communication, receipt or disclosure of restricted data—42 U.S.C. §2274-77
- Registration of certain persons trained in foreign espionage systems 50 U.S.C. §§851, 855
- Foreign Agents Registration Act—22 U.S.C. §618(a)
- Unlawfully entering the United States—8 U.S.C. §1325
- Any other offense not heretofore listed which is contained within Chapter 45 of Title 18 U.S.C.
- 3. Crimes involving foreign interference with the integrity of United States governmental institutions or process. Such crimes may include, when committed by foreign persons:
  - Bribery of public officials and witnesses—18 U.S.C. §§201-208
  - Conspiracy to injure or impede an officer—18 U.S.C. §372
  - Election contributions and expenditures—2 U.S.C. §§441 a-j, 18 U.S.C. 599-600
- 4. Crimes which appear to have been committed by or on behalf of a foreign power or in connection with international terrorist activity. Such crimes may include:
  - Aircraft piracy—49 U.S.C. §1472(i)
  - Distribution, possession, and use of explosives—18 U.S.C. §§842(a) - (i)

30 August 1984  
TS 29

XII-28